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C O N F I D E N T I A L SECTION 01 OF 03 BUCHAREST 000784

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DEPT FOR EUR/NCE AARON JENSEN; EUR/SCE - PFEUFFER

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SUBJECT: PARTING SHOT: FORMER JUSTICE MINISTER CRITICIZES
GOR ANTICORRUPTION EFFORTS

REF: A) BUCHAREST 574 B) BUCHAREST 556 C) BUCHAREST
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Classified By: DCM Mark Taplin for reasons 1.4(b) and (d).

¶1. (C) Summary: Former Justice Minister Macovei provided a downbeat assessment of recent GOR efforts on the anticorruption front, alleging attempts to weaken the National Anticorruption Directorate; to direct state funds toward private interests; and to use anticorruption funding from the EU and other donors to promote the GOR image rather than focusing on serious anticorruption efforts. She said that the goal appeared to be the creation of an ineffectual National Integrity Agency that would not threaten Romania's traditional nexus of business and political interests. She was also skeptical of the independence of the Constitutional Court, noting that recent decisions to the president's and her favor could not have been otherwise, and that old-guard judges still made dodgy decisions including one that required the case against former president Ion Iliescu be restarted from scratch. She was more upbeat on the role of civil society in countering corruption, predicting that NGOs would play a large role in the upcoming series of elections as they did in 2004 when the Coalition for a Clean Parliament helped tip the elections against politicians associated with corruption. End summary.

Macovei's Departing Assessment of GOR Anticorruption Efforts

¶2. (C) During a June 29 meeting at the Embassy, Former Justice Minister Monica Macovei, who left Romania on July 1 to work as the UK-funded anticorruption advisor to Macedonia's Prime Minister, summed up Romania's current situation as "not going well." She said her main concern was the National anticorruption Directorate (DNA), whether "it stays as is." She said it was the "intent of the government to change the top prosecutors" and confirmed that Justice Minister Tudor Chiuariu had asked the European Commission to remove from its June 27 Monitoring Report any positive language towards the DNA. Macovei characterized a recent protest by prosecutors and magistrates against Chiuariu as unprecedented, underscoring their judicial independence and lack of fear of reprisal. She indicated she would support the formation of a "real association" that represented magistrates. However, Macovei was skeptical the Superior Council of Magistracy (SCM) would issue an impartial report on the activity of DNA, hinting that "there could be arrangements" to give Chiuariu support in his attempt to dismiss the key anticorruption prosecutor, Doru Tulus.

¶3. (C) Macovei said she had met with Former PSD Justice Minister Cristian Diaconescu on June 27. She reported he had confirmed PSD Deputy and political strategist Viorel

Hrebenciuc and the Liberals had planned to destroy the DNA during the one-month suspension of President Basescu. Macovei also said the Liberals were intent on replacing the DNA leadership by merging it with the Department for the Investigation of Organized Crime and Terrorism (DIICOT) -- an agency which Macovei distrusted. Macovei argued that protecting the independence of prosecutors came down to protecting the individual prosecutors at DNA as otherwise no prosecutors would step forward again to act independently. She characterized the DNA as politically impartial, saying that more Democrats were indicted last year than from any other party.

¶4. (C) Macovei said that she had set aside 1.6 million euros in EU-funds in 2006 for the MOJ's anticorruption campaign, which would aim at the institutions perceived as most corrupt according to a study conducted by Transparency International and three other firms. However, Macovei said that since the results singled out parliament, Chiuariu had decided not to attempt an anticorruption public awareness campaign aimed in that direction. She claimed Chiuariu would redirect the funds to enhance his own image instead. On July 2, the Justice Ministry re-negotiated with its partner firms to change the objectives of the National Anticorruption Campaign.

¶5. (C) Macovei said that she had frequently encountered questionable actions while in PM Tariceanu's cabinet, citing several examples. In February 2007, the GOR suspended the law on insolvency for 28 companies, saving them from bankruptcy and providing state aid to administrators whom Macovei described as more deserving of criminal investigations instead. She had also opposed the GOR's re-establishing of duty-free shops on land borders with

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non-EU states, which she claimed only dealt in "contraband" and had no legitimate purpose; the GOR enacted it during the one-month suspension of President Basescu. Macovei also cited the problems with government contracts, saying that her GOR colleagues were "always discussing" the 2006 law on public procurement as they "want to give direct contracts." She also noted there was a special law on military procurement which was much more permissive of tailoring specifications to specific vendors. She said she had to intervene three times regarding one such military contract because it was evident the specifications were written to direct the funds towards a certain company. Macovei also evinced suspicion about a parastatal defense firm, Romtechnica, which she declared "should disappear" as "everything goes through it."

Who's being monitored?

¶6. (C) Regarding the National Integrity Agency (ANI) that is now being established, Macovei responded, "I hate it," noting that under the current law, the agency was subordinated to the Senate, rather than senators being subjected to ANI's scrutiny. There had been no transparent process for the political parties to select their candidates to fill ANI positions and even the NGO representative was appointed by the Senate rather than by civil society groups. She added that inspectors have limited powers and can only access public information; that inspections of assets can only occur with the permission of the individual being investigated; and that investigations must be terminated when an official resigns, creating a loophole for corrupt officials to make millions, then to cash out by submitting their resignations.

Constitutional Court Still Not Immune from Political Pressure

¶7. (C) Macovei said that despite some recent Constitutional Court decisions that favored President Basescu and herself, she was fundamentally distrustful of the judges on the Court.

She said that the Constitutional Court's decision advising against parliament's suspension of the president was the only possible choice; the same was true with the Court's decision last February that the Senate's no-confidence motion against her was unconstitutional. She noted that the members of the Court were neither trained nor specialized in Constitutional law, and that they were still capable of reaching dodgy decisions, including a June 20 decision that ruled that a case against former President Ion Iliescu that was completed by military prosecutors would have to be sent to civilian prosecutors who would have to start from scratch. Macovei noted that she found no justification for this finding in the Romanian Constitution and in the decisions of the European Court of Human Rights. (Note: on July 5, the Constitutional Court also ruled that former ministers enjoy the same privilege as current ministers, finding that the investigation of former Prime Minister Adrian Nastase must be authorized by the Chamber of Deputies before proceeding. End note.)

Civil Society Steps Up

18. (C) Macovei said civil society was now a lonely voice speaking out against the GOR's actions to weaken anticorruption efforts, pointing to a highly critical report released by the Initiative for a Clean Justice (ICJ). (note: The ICJ was launched on June 22 as a joint project of six NGOs under the aegis of the Coalition for a Clean Government -- the revived Coalition for a Clean Parliament that had helped tilt the scales in the 2004 elections in favor of strengthening the rule of law in Romania. The ICJ includes Freedom House, the Romanian Academic Society, the Group for Social Dialogue, The Advocacy Academy, Timisoara Society, and Society for Justice. End note)

Comment

19. (C) Efforts by the Justice Ministry to water down GOR anticorruption efforts have reenergized civil society groups. The Coalition for a Clean Government re-launched its activities May 10 by demanding the resignation of Justice Minister Chiuariu. It will also publish "blacklists" of shady politicians in the run-up to the European Parliament Elections, and before subsequent local and parliamentary races. Macovei, who is leaving for a one-year stint in Macedonia as an anticorruption advisor to the Prime Minister,

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noted that she had made too many enemies in Romania by aggressively promoting the anticorruption agenda. She noted to us that "I have to work somewhere." Although she did appear at political rallies with President Basescu in May during his suspension from office, she otherwise has refused to affiliate herself formally with any political party. She said she had rebuffed both President Basescu's offer to work as his anticorruption advisor as well as an offer to join the Democratic Party. End comment.

110. (C) Bio Note for Embassy Skopje: Monica Macovei has been a long-time contact of Embassy Bucharest and was among the most popular officials in Romania, though very unpopular with other officials. More than any other Romanian official, Macovei is credited with having paved the way for Romania's successful accession to the EU last January. She will likely offer straight forward, candid advice to the GOM and should emerge as a good ally of Embassy Skopje on anticorruption reforms. We hope her voice will continue to be heard in Romania while serving in Skopje.

TAUBMAN